

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY JUNE 8, 2004

AMENDED IN SENATE APRIL 13, 2004

SENATE BILL

No. 1749

Introduced by Senator Karnette

February 20, 2004

An act to add Chapter 5.7 (commencing with Section 42355) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1749, as amended, Karnette. Plastic bags: labeling.

The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. The act requires every manufacturer that manufactures plastic trash bags of a specified thickness to ensure that a trash bag intended for sale in this state contains a quantity of recycled plastic postconsumer material equal to at least 10% of the weight of the bag, or that at least 30% of the weight of the material used in all of the manufacturer's plastic products intended for sale in this state is recycled plastic postconsumer material.

This bill would prohibit a person from selling a plastic bag that is labeled as "biodegradable," "compostable," "degradable," or as otherwise specified, unless, *at the time of the sale*, the plastic bag meets ~~an~~ a current ASTM standard specification for the term used on the label.

The bill would require a manufacturer or supplier, as defined, upon the request of ~~the board or~~ *a member of the public*, to submit *to that member, within 90 days of the request*, information and documentation demonstrating compliance with the bill ~~or a certification from an independent organization authorized by the board to demonstrate compliance.~~

~~The bill would prohibit a supplier or manufacturer from providing a bid for plastic bags to a state agency that does not comply with the bill's requirements.~~

~~The bill would require the board to review, determine, publish, and update the ASTM standard specifications for degradable, biodegradable and compostable, as applied to the sale and manufacture of plastic bags in this state, and to maintain and publish a list of independent organizations authorized by the board to certify compliance.~~

~~The bill would authorize the board to assess a civil penalty upon any person violating the bill's requirements in an amount of not more than \$50,000 and would require the board to deposit these penalties into the Plastic Bag Labeling Account, which the bill would create in the Integrated Waste Management Fund in the State Treasury, for expenditure by the board, upon appropriation by the Legislature, for the board's costs of implementing the bill.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes—no.~~
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5.7 (commencing with Section 42355)
2 is added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4

5 CHAPTER 5.7. BIODEGRADABLE AND COMPOSTABLE PLASTIC
6 BAGS

7

8 42355. The Legislature finds and declares that it is the public
9 policy of the state that environmental marketing claims, whether
10 explicit or implied, should be substantiated by competent and
11 reliable evidence to prevent deceiving or misleading consumers
12 about the environmental impact of plastic bags. For consumers to
13 have accurate and useful information about the environmental



1 impact of plastic bags and packages, environmental marketing
2 claims should adhere to uniform and recognized standards,
3 including those standard specifications established by the
4 American Society for Testing and Materials.

5 42356. For purposes of this chapter, the following definitions
6 apply:

7 (a) “ASTM” means the American Society for Testing and
8 Materials.

9 (b) “ASTM standard specification” means a definition found
10 in the Style and Form Guide for ASTM Standards and does not
11 include an ASTM Standard Guide, a Standard Practice, or a
12 Standard Test Method.

13 (c) “Manufacturer” means a person, firm, association,
14 partnership, or corporation that produces a plastic bag.

15 ~~(d) “Specification” means an explicit set of requirements to be~~
16 ~~satisfied by a material, product, system, or service.~~

17 ~~(e)~~

18 (d) “Supplier” means a person who does one or more of the
19 following:

20 (1) Sells, offers for sale, or offers for promotional purposes, a
21 plastic bag that is used by a person to contain a product.

22 (2) Takes title to a plastic bag produced either domestically or
23 in a foreign country, that is purchased for resale or promotional
24 purposes.

25 42357. (a) A person shall not sell a plastic bag in this state
26 that is labeled with the term “compostable,” “biodegradable,”
27 “degradable,” or any form of those terms, or in anyway imply that
28 the bag will break down in a landfill, composting, marine, or other
29 natural terrestrial environment, unless, *at the time of the sale*, the
30 plastic bag meets ~~an~~ a current ASTM standard specification for the
31 term used on the label.

32 (b) ~~(1)~~ A manufacturer or supplier, upon the request of the
33 ~~board or~~ a member of the public, shall submit to the ~~board or~~ that
34 member, *within 90 days of the request*, information and
35 documentation demonstrating compliance with this chapter, in a
36 format that is easy to understand and scientifically accurate.

37 ~~(2) A manufacturer or supplier may, instead of submitting~~
38 ~~information and documentation under paragraph (1), supply a~~
39 ~~certification from an independent organization authorized by the~~

~~board pursuant to paragraph (3) of subdivision (a) of Section 42359 to demonstrate compliance with this chapter.~~

~~42358. — A supplier or manufacturer shall not provide to a state agency a bid for plastic bags that do not comply with this chapter.~~

~~42359. — (a) The board shall do all of the following:~~

~~(1) Review, determine, and publish the ASTM Standard Specification for degradable, biodegradable, compostable, or any form of those terms, applicable to sale and manufacture of plastic bags in this state.~~

~~(2) On or before January 1, 2007, and at least once every three years thereafter, update the specifications specified in paragraph (1).~~

~~(3) Maintain and publish a list of independent organizations authorized by the board to certify compliance with this chapter.~~

~~(b) (1) The board may assess a civil penalty upon a person violating this chapter in an amount of not more than fifty thousand dollars (\$50,000) for each violation, pursuant to a notice and hearing procedure that conforms with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(2) The total annual penalties assessed upon a violator of this chapter shall not exceed one hundred thousand dollars (\$100,000).~~

~~(3) The board shall deposit all penalties paid pursuant to this section into the Plastic Bag Labeling Account, which is hereby created in the Integrated Waste Management Fund in the State Treasury. The moneys deposited in the Plastic Bag Labeling Account shall be expended by the board, upon appropriation by the Legislature, for the board's costs of implementing this chapter.~~